

### REMARKS

**Status:**

Claims 1-23, 25-27, and 29-30 stand rejected. Claims 1, 14, 20, 26, 27, 29, and 30 are amended without prejudice to Applicants' ability to file a continuation application. Claims 24 and 28 were previously cancelled without prejudice.

Claims 1-23, 25-27, and 29-30 remain pending.

Claims 1, 14, and 20 are amended to recite an instrument adapted for cutting or grasping tissue. Support is found in the drawings (Eg. Figures 4 and 24) and the description (e.g. page 19, lines 25-30 disclose a grasper 96; page page 12, lines 11-17 disclose tissue cutting). Claim 26 is amended to recite restriction of twisting. Support is found in the claims as originally filed. Claim 27 is amended to recite engaging tissue with at least one jaw disposed at the distal end of the instrument. Support is found in Figure 2 and the specification (eg. Page 11 at line 9-21 includes disclosure of jaw 68). Claim 29 is amended to recite a relatively flexible instrument and a relatively rigid member, and constraining motion of the distal end of the relatively flexible instrument with the relatively rigid member without substantial bending of the relatively rigid member. Support for the relatively rigid member is found at page 9, lines 17-28, including description of a mechanism that includes a member that can be relatively rigid or relatively flexible, and the disclosure of a pivot arm that does not bend as shown in Figures 1-6.

**102(b) Rejections:**

Claims 1-8, 13-18, 20-22, 25-27, and 29 are rejected as anticipated by Komiya('624). Withdrawal of this rejection is requested for the following reasons.

Independent Claims 1, 14, and 20 are amended to recite an instrument adapted for cutting or grasping tissue. Komiya '624 teaches a guide tube 5 and a wire 6. It is respectfully urged that such a guide tube does not meet the limitation of Claims 1 and 20 as amended. With respect to

Figure 6 of Komiya, it is respectfully urged that the distal end of the instrument 10 in Komiya does not appear to be constrained or guided after it leaves tube 5.

Further, it is respectfully urged that Figure 6 of Komiya and the associated text do not teach or suggest restricting twisting of the instrument about the longitudinal axis of the instrument, as set forth in Claim 2 (and 17 and 26). In particular, it is not seen how the tube 5 would restrict twisting of the distal end of the instrument 10 of Komiya. Also, it is respectfully urged that the Examiner has assumed that wire 6 would prevent twisting of tube 5, and it is respectfully urged that this is not supported by the disclosure of Komiya, especially in view of the bending of wire 6 (see Figure 3 and Figure 12 of Komiya) that takes place as the tube 5 is extended. In other words, in view of Komiya's drawings showing the wire 6 bending during operation, it is not clear how the Examiner can assume that the wire will prevent twisting of the tube 5 or instrument 10.

With respect to amended independent Claim 29, it is respectfully urged that Komiya does not teach or suggest constraining motion of the distal end of a relatively flexible instrument with a relatively rigid member without substantial bending of the relatively rigid member. Instead, Komiya shows wire 6 bending during operation of the device.

#### 103 Rejections:

Claims 9, 10, 11, 12, and 19 are rejected as obvious over Komiya in view of Sekine et al. ('753). It is respectfully urged that this rejection is overcome by the amendment to independent claims, for the reasons set forth above.

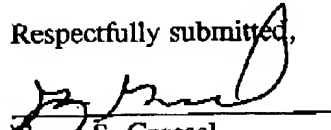
Claim 30 is rejected as obvious over Komiya in view of Sekine et al. and further in view of Matsui et al. Claim 30 as amended recites supporting the relatively rigid member for rotation about an axis fixed with respect to the distal end of the endoscope. It is respectfully urged that even if one combined the references as suggested by the Examiner, the resulting combination would not provide the subject matter recited in Claim 30.

Accordingly, withdrawal of the rejections is requested.

**Conclusion:**

The Examiner is respectfully requested to reconsider the application in view of the Remarks above and any amendments. Please call Gerry Gressel at 513 337 3535 with any questions.

Respectfully submitted,

  
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